

TOWN OF KITTERY, MAINE
PLANNING BOARD MEETING
Council Chambers

APPROVED
December 13, 2012

Meeting called to order at 6:06 p.m.

Board Members Present: Deborah Driscoll, Tom Emerson, Susan Tuveson, Bob Melanson, Mark Alessi

Members absent: Ann Grinnell, Rich Balano

Staff: Gerry Mylroie, Town Planner

Pledge to the Flag

Minutes: November 29, 2012

Ms. Driscoll moved to accept the minutes of November 29, 2012 as submitted

Ms. Tuveson seconded

Motion carried unanimously by all members present

Public Comment:

Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

There was no public comment.

ITEM 1 – Yankee Commons Mobile Home Park Expansion – Subdivision Plan Review.

Action: Review progress on preliminary plan. Stephen A. Hynes, Trustee, owner, proposes to expand the adjacent Yankee Commons Mobile Home Park to create 79 sites on 50 acres. Property is located off Idlewood Lane/U.S. Route 1, Map 66 Lots 24, Mixed Use (MU) Zone. Agent is Tom Harmon, PE, Civil Consultants.

Mr. Mylroie summarized the applicant is requesting a continuation of the application for the project as they await a determination from the Code Enforcement Officer regarding mineral extraction at the proposed site.

Mr. Harmon concurred with Mr. Mylroie, that the

Ms. Tuveson moved to continue the application

Ms. Driscoll seconded

Ms. Tuveson amended the motion to continue the application for 90 days from December 13, 2012.

Ms. Driscoll seconded

Motion carried unanimously by all members present

ITEM 2 – Memorial Circle, USS Thresher Memorial Flag Pole Base Design

Action: Review plan and grant or deny approval. The Thresher Memorial Project Group proposes a 20-foot diameter granite curb and stone base around the memorial flag located at the center of Memorial Circle in the Town of Kittery.

Mr. Mylroie summarized the proposal currently before the board is for the base only in preparation for the dedication ceremony in April. Landscaping and monumentation is not included

Mr. Alessi asked if the Board was aware the large tree in the center would have to be destroyed.

Mr. Mylroie state this tree would be taken down, but the others in the circle could be identified for transplanting. **Mr. Melanson** noted this tree is a Norway maple and is identified as an invasive species in Maine. **Mr. Alessi** asked if the tree could be transplanted. **Mylroie** stated the building permit to install

the flagpole has been issued and removal was always contemplated. **Ms. Driscoll** noted this has been discussed and a decision made.

David Lincoln asked if the Board was involved in the building permit. **Mr. Melanson** explained the only approval granted by the Board at the 11/29/12 meeting was the installation of the flagpole, which included the removal of the trees in the center.

Mr. Mylroie summarized the proposal for a 20-foot wide diameter circle of black granite, with granite edging. There will be not inlaid plaques or other monummentation placed within the circle. Any other improvements to the Circle would be compatible. **Ms. Driscoll** asked if there will be electrification installed. **Mr. Mylroie** stated the memorial flag will be illuminated utilizing existing electrical connections. The existing flagpoles would remain at least until the spring, but their relocation has not yet been determined.

Matt Brock, Kittery Point, stated the Board should not proceed with any review without the full project presentation. Since the Council approved the flagpole there have been substantive changes to just including a flagpole and without a complete application, it is difficult to see how all the pieces fit together. He also noted he was concerned about the expenditure of Town funds for this project by the Town Planner and Public Works Department for time spent. If the Town owns most or all of the property the project is being placed upon, the Town should have a vote. He is supportive of the efforts to date and the memorial, but the design is still unclear and is something that the Town will have to live with for a long time, and asks any decisions be delayed until a complete application is before the Board.

Mr. Mylroie stated public hearings have been held, the concept and design is clear and the parts of the memorial are integrated. There will be more meetings regarding the design elements of the Memorial Park, but proceeding with the base design will allow the dedication to go forward and is in keeping with the Council's resolution.

Wendy Pomery and Martha Peterson, Kittery Point, presented a 1/8":1 scaled drawing of the flagpole, a 20 x 30-foot flag, the 20-foot diameter base and including, for clarification, a scaled 30-foot tree. The graphic illustrates the size of the flagpole in proportion to the circle.

Mr. Alessi concurred the base appears disproportionately small to the height of the flagpole.

Martha Peterson asked whether the decision could be held until there are more Board members present. As this proposal affects the other pieces of the project, approval tonight should wait.

D. Allan Kerr, Thresher Memorial Project, noted there was a plan put together and these have been put on hold at the request of expressed concerns. He noted the flagpole at the Kittery Community Center is 68 feet high with a 6 1/2 foot base.

Steve Hall, Kittery Point, requested it be noted that the audience members in attendance wished to have the entire plan application be made available prior to approval.

Mr. Melanson asked for a motion
There was no motion proposed.

Mr. Alessi requested the applicant consider a design to include a larger base that would be more in proportion with the height of the flagpole. **Mr. Melanson** suggested another base design be included when the applicant returns with the full application. **Ms. Driscoll** noted her question about the existing flagpoles in the circle as well as the other aspects of the design should be brought forward as one application for consideration. **Ms. Tuveson** concurred. **Mr. Melanson** stated the applicant needs to be as responsive to the ordinance as other applicants before the Board and in compliance.

Mr. Emerson joined the Board at 6:45 p.m.
Mr. Melanson conceded the meeting to Chairman Emerson.

Mr. Melanson moved that future submittals to the Board include all parts of the Memorial, including the flag pole base.

Mr. Alessi seconded

Ms. Tuveson noted the motion is not the issue before the Board at this time.

Discussion followed regarding whether the Board would hear separate submittals of the memorial proposal. Mr. Mylroie stated the Committee will return as the Board requests.

Motion is withdrawn

Mr. Melanson moved to approve the installation of the Thresher flagpole base as proposed.

Ms. Tuveson seconded

Motion fails, with 4 opposed and 1 abstention (Emerson)

NEW BUSINESS

ITEM 3 – 68 Chauncey Creek Road Replacement Structure, Shoreland Development Review.

Action: Accept or deny plan application and schedule a public hearing. John Rummler, owner and applicant, requests approval to replace and expand an existing structure at the property located at 68 Chauncey Creek Road, Tax Map 45, Lot 72, Residential – Suburban Zone and Shoreland Overlay Zone.

Ms. Tuveson moved to accept the application and schedule a site walk and public hearing.

Ms. Driscoll seconded

Motion carried unanimously by all members present

Because of the concern of snow cover, the Planner may visit the property and take photos prior to the site walk. A site walk was scheduled for Tuesday, January 8, 2013 at 8:00 a.m. and a Public Hearing to be held on January 10, 2013.

ITEM 4 – Street Acceptance for Roseberry Lane as a Public Street, Acceptance of Streets and Ways.

Action: Review petition and make findings for recommendation to Town Council. The Dennett Road Homeowners Association, requests recommendation to the Town Council for the acceptance of their private street located off Dennett Road, adjacent to parcel Tax Map 12 Lot 1-1, and located in the Residential – Suburban Zone. Resident Brian E. Donnell is representing the homeowners association.

Mr. Mylroie summarized the Board needs to affirm the Public Works Commissioner and staff recommendations that the road be accepted as a public road. The Council will make the final decision as to whether it will be accepted. As part of a subdivision, the developer kept the road as a private road until all parcels had been sold, but it was noted in the original approval that the road was always intended to become a public road. **Ms. Tuveson** noted the current standards and the 2008 standards do not match.

Mr. Mylroie stated the standard at the time of construction has been met.

Brian Donnell, representative, explained the 2008 standards were met at the time of construction, as approved by the Planning Board.

Mr. Melanson stated the homeowners should not be penalized because standards have changed since the original approval. **Mr. Mylroie** read from Title 16.8.5.1.4, *Such street or way must have been previously constructed in accordance with the standards and criteria established in Article IV of this chapter,* and from the 2008 condition of approval, 6. *Prior to a request for consideration of street acceptance as a public street, the Developer must submit as-built data that verifies to the Town's satisfaction that the street has been built to Town standards.* **Ms. Driscoll** asked what if a street was built to standards in the 60's and wanted to be accepted now? Discussion followed regarding whether the Board can require applicants meet current road/street standards following approval under different standards. **Mr. Emerson**

asked why subdivision roads are not made public at the time of Board review and approval. Ms. Driscoll suggested the Council be aware of the

Mr. Melanson moved to report to the Town Council as required per Title 16.8.5.4 for their consideration in acceptance of a public street that Roseberry Lane was previously constructed to Town standards as established in Title 16, Land Use Development Code.

Mr. Alessi seconded

Ms. Driscoll stated the Council needs to be aware of how this road does not meet current standards and if accepted would be setting a precedent. **Mr. Melanson** asked if the packet before the Board would be presented to Council. **Mr. Mylroie** stated the Council would receive this information. **Mr. Emerson** noted the Council made a motion to not accept sidewalks on Adams Drive. Based on the prior approval of this subdivision, he felt the current Board needs to follow the original approval and conditions. There was further discussion regarding old vs. new standards and whether new standards must be followed.

Mr. Melanson amended the motion: Roseberry Lane does not currently meet Town code standards though meets the 2008 standards under which the subdivision was approved, nor does it appear there were any waivers granted for street design. However, acceptance meets the standard of Title 16.8.5.1.4 *Such street or way must have been previously constructed in accordance with the standards and criteria established in Article IV of this chapter.*

Ms. Tuveson seconded

Motion carried unanimously by all members present

Break

ITEM 5 – Town Planner Items:

- A. Selected Commercial Recreation definition (pending); Mr. Emerson stated he would like this and the LED lighting amendment to the Code addressed at the same time. Ms. Driscoll asked that a presentation on LED lighting be made to the Board so they understand fully what they will be discussing.
- B. Proposed Overlay Zone (pending);
- C. Kittery Foreside outdoor seating evaluation (pending); Mr. Emerson requested this also needs to be brought forward so recommendations may be made to Council.
- D. Other updates
 - Rt. 1 Microbrewery – the site was viewed by the DPW Commissioner and Planner, and it was recommended the access be made to the south of the property and/or at the Parsons Road curb cut, rather than make new curb cuts at this property. **Ms. Tuveson** (recused herself as a Board member) does not understand the curb cut challenge, and why this is being pushed forward. **Mr. Emerson** stated the applicant needs to present a design for the Board to review which would include the building, parking, etc. and provide a broader picture of the plan. **Mr. Mylroie** explained that MDOT as well as DPW will be reviewing any curb cuts on Route 1 in this area. Bringing this to the Board at this time is for the applicant's benefit prior to preliminary review submittal.
 - Rain Garden Status – a memo to the Board from the Commissioner of Public Works includes the grading plan approved by the DEP for their permit to the Town. The proposed path in the rain garden area could connect to possible path alongside the traffic circle. The original location of trees as approved by the DEP was changed and additional trees are proposed. **Ms. Driscoll** objected to a pathway in this area. **Mr. Melanson** reminded Mr. Mylroie this needs to be brought forward with the other Thresher Memorial proposed designs. Mr. Mylroie stated this will be brought back to the Board as part of the proposed memorial design. **Mr. Emerson** stated the

DEP permit specifically states local approval is part of their permit. If the DEP plan is changed, it needs to be reviewed again. Trees have already been planted not following the DEP approved plan, but adjusted for the Thresher Memorial project design. The entire rain garden area was constructed without Board review and approval and now the Thresher Memorial plan has been thrust into this mix-up. **Earldean Wells** noted the rain garden is an engineered design that could be negatively impacted by people walking in this area. **Mr. Mylroie** explained he has attempted to work with DPW to assure that similar projects are brought to the Planning Board for review. **Ms. Driscoll** noted this is in the middle of Town and cannot be ignored. The Board requested the Commissioner of Public Works be present to discuss these issues with the Board. Who will maintain this area? **Mr. Emerson** suggested the Thresher Memorial Committee impress upon the Commissioner that their ability to have all components of the memorial pass before the Board is dependent upon her participation in the discussions related to this area. **Ms. Driscoll** asked that Mr. Mylroie confirm the planting of the trees in the amended plan is acceptable to the DEP.

- **Mr. Mylroie** summarized the Kittery Foreside workshop and a noted technical working group meeting will be scheduled in January. A meeting will be scheduled with consultants from Sustain Southern Maine Partnership grant, with another workshop to present drawings and findings in mid-February, 2013. **Mr. Emerson** noted this area may be a candidate for a development overlay zone. **Mr. Mylroie** noted the prior Council had requested a proposal for a TIF district in this area.
- The Foreside outdoor seating evaluation needs to be brought to the Board for review.
- The Conservation Commission requested the Board consider implementing a shoreland impact fee. **Mr. Emerson** asked the Commission to research this for further discussion. **Ms. Tuveson** asked that mitigation also be included in any proposal before the Board so it is not just a money-making proposal. Discussion followed regarding how fee amounts will be established and how they could be automatically adjusted. **Ms. Driscoll** asked what kind of shoreland impacts she is addressing. **Ms. Wells** recited a situation where a septic system was removed and replaced in the shoreland zone, rather than moved out of the shoreland zone.

Ms. Tuveson moved to adjourn

Mr. Melanson seconded

Motion carries unanimously by all members present.

The Kittery Planning Board meeting of December 13, 2012 adjourned at 8:45 p.m.

Submitted by Jan Fisk, Recorder – December 18, 2012